

IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for Mandates in the nature of *Writs of Certiorari, Prohibition and Mandamus* under and in terms of Article 140 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

C.A. (Writ) Application

No: 0247/2015

1. Sri Lanka Red Cross Society,
National Headquarters,
No. 104, Dharmapala Mawatha,
Colombo 07.

2. Jagath Abeysinghe,
President,
Sri Lanka Red Cross Society,
National Headquarters,
No. 104, Dharmapala Mawatha,
Colombo 07.

3. S.H. Nimal Kumar,
National Secretary,
Sri Lanka Red Cross Society,
National Headquarters,
No. 104, Dharmapala Mawatha,
Colombo 07.

4. Red Cross Machinery Organisation,
No. 106, Dharmapala Mawatha,
Colombo 07.

PETITIONERS

Vs.

1. Commissioner General of Land,
Land Commissioner General's Department,
"Mihikatha Madura",
No. 1200/6, Rajamal Waththa Road,
Battaramulla.
2. Southern Province Land Commissioner,
Southern Province Land Commissioner's Office,
1st Floor, Town Hall Building,
Galle.
3. Southern Province Deputy Land Commissioner,
Southern Province Deputy Land
Commissioner's Office,
Fort, Matara.
4. District Secretary,
District Secretariat,
Hambantota.
5. Divisional Secretary,
Divisional Secretariat,
Magam Ruhunupura Administrative Complex,
Siribopura, Hambantota.

6. Urban Development Authority,
7th Floor, Sethsiripaya, Battaramulla.

7. K.H. Premathilake,
Chairman,
Magampura Praja Sanvardana Padanama,
No.07, Senapura,
Tissamaharamaya.

8. S.K. Karunathilake,
Secretary,
Magampura Praja Sanvardana Padanama,
No. 07, Senapura,
Tissamaharamaya.

9. Hon.M.K.A.D.S. Gunawardene,
Minister of Lands,
“Mihikatha Madura”,
1200/6, Rajamal Waththa Road,
Battaramulla.

- 9A. Hon. John Amarathunga,
Minister of Lands,
“Mihikatha Madura”,
No. 1200/6, Rajamal Waththa Road,
Battaramulla.

- 9B. Hon. Gayantha Karunatileka,
Minister of Lands and Parliament Affairs,
“Mihikatha Madura”,
No. 1200/6, Rajamal Waththa Road,
Battaramulla.

10. Secretary to the Ministry of Lands,
“Mihikatha Madura”,
No. 1200/6, Rajamal Waththa Road,
Battaramulla.

RESPONDENTS

Before : Dhammika Ganepola, J.
Adithya Patabendige, J.

Counsel : Saliya Peiris PC with Susil Wanigapura and Hiruni Chandrasekara for
the Petitioners.
Chaya Sri Nammuni DSG for 1st – 6th Respondents.
Kuvera De Zoysa PC with Sanjana De Zoysa instructed by Sanjay
Fonseka for the 7th, 8th Respondents.

Argued on : 24.09.2025
20.01.2026

Written Submission

Tendered on : 06.03.2026 by the 7th and 8th Respondents.

Decided on : 28.04.2026

Adithya Patabendige, J.

The Petitioners have invoked the writ jurisdiction of this Court under Article 140 of the Constitution of Sri Lanka, seeking relief in the nature of *writs of certiorari, prohibition, and mandamus* in respect of decisions taken by the Respondents regarding a plot of State Land situated in Hambantota, on which a fuel station has been established and operated by the 1st Petitioner.

The principal grievance of the Petitioners arises from the refusal or suspension of their application to obtain a long-term lease of the said land, and the subsequent decision of the Respondents to lease the same to an entity known as the Magampura Praja Sanvardena Padanama (hereinafter sometimes referred to as MPSP).

The Petitioners contend that decisions are unlawful and arbitrary, and have been taken in violation of the principles of natural justice and their legitimate expectations, particularly arising from the prior approvals granted to the 1st Petitioner and the substantial investment made in developing and operating the said fuel station.

Reliefs Sought

The Petitioners seek, *inter alia*:

- a) a *writ of certiorari* quashing the decisions reflected in documents marked **P12A, P12B, P12C, P12D, P14, P17A, P17B, P17C, and P17D**, whereby the Respondents have refused or suspended the 1st Petitioner's application to lease the land depicted in plan marked **P8** and have taken steps to lease the same to the MPSP;
- b) a *writ of prohibition* restraining the Respondents from alienating, granting, or leasing the said land to the MPSP or any other third party;
- c) a *writ of mandamus* directing the Respondents to take steps according to law to lease the said land to the 1st Petitioner;

Factual Background

The 1st Petitioner is a charitable organization incorporated by a Royal Charter, marked **P1A**. The 2nd and 3rd Petitioners are its President and National Secretary, respectively.

The 4th Petitioner is a company incorporated under the Companies Act for the purpose of engaging in commercial activities to generate funds for the 1st Petitioner.

In 2007, the 1st Petitioner decided to establish a fuel station in Hambantota to raise funds for its charitable activities. By letter dated 19th April 2007 marked **P2**, the 2nd Petitioner, who is the President of the 1st Petitioner, informed the Chairman of the District Development Council of its intention to establish the said fuel station. Thereafter, by letter dated 15th June 2007, marked **P3A**, the Deputy Director of the 6th Respondent (Urban Development Authority), indicated to the Director of the Southern Province of the 6th Respondent that the

land had been reserved for the said purpose, and the 7th Respondent agreed to the submission of the project plan. The said letter was copied to the 7th Respondent, who represented as the Secretary of Hambantota Branch of the 1st Petitioner.

By letter dated 09th July 2007, marked **P4**, then Minister Chamal Rajapaksa. requested the allocation of 40 perches of land for the aforementioned project. Following the initial steps, including survey-related correspondence marked **P5A** and **P5B**, the extent of land was increased to 65 perches at the request of the Ceylon Petroleum Corporation, as reflected in the document marked **P6A**. The 5th Respondent, the Divisional Secretary of Hambantota, by letter marked **P5A**, informed the Survey Superintendent to recover the expenses of the said survey from the 1st Petitioner, as the construction of the fuel station was done by the 1st Petitioner.

The Ceylon Petroleum Corporation informed the 2nd Petitioner that a minimum of 65 perches of land is required closer to the main road. Accordingly, the 7th Respondent requested an extension of land from the 4th Respondent, as reflected in the document marked **P6B**. Thereafter, Minister Chamal Rajapaksa also requested from the 4th Respondent about the aforesaid extension of the land (vide **P6C**).

The 4th Respondent, District Secretary, by letter dated 07th January 2008, marked **P7**, informed the Petitioners that an additional extent of 25 perches was approved for the grant of a long-term lease. The land was thereafter surveyed, and the Plan marked **P8** was submitted. By letter dated 08th January 2008 marked **P9A**, the 5th Respondent, the Divisional Secretary of Hambantota, informed the 2nd Petitioner that steps would be taken to lease the land on a long-term basis to the 1st Petitioner. Subsequent correspondence, as reflected in documents marked **P9B** and **P9C**, expresses that the project received approval from the Ceylon Petroleum Corporation.

The 4th Petitioner company was incorporated in 2008 to undertake the commercial operations of the project. Construction of the fuel station was completed by September 2010, and by the letter dated 28th September 2010, marked **P10A**, the Ceylon Petroleum Corporation confirmed compliance with required standards. The dealership agreement is marked as **P10B**, and the MOU governing operations is marked as **P10C**. The fuel station thereafter commenced operations and continued to function under the management of the 1st and 4th Petitioners.

In late 2013, financial discrepancies were detected in the fuel station. An internal audit report dated 09th February 2015 marked **P11A** revealed alleged financial irregularities. Consequent thereto, by letter dated 14th February 2015 marked **P11B**, the Central Governing Board of the 1st Petitioner suspended the Hambantota branch committee and appointed an interim committee.

The Petitioners state that they subsequently became aware that the Respondents had taken steps to lease the said land to MPSP, in which the 7th Respondent is said to hold office.

The 5th Respondent informed the 3rd Respondent, the Southern Province Deputy Land Commissioner, that the District Land Use Planning Unit had decided to temporarily suspend the decision to grant a long-term lease to the 1st Petitioner.

By letters marked **P12A**, the 4th Respondent, **P12B**, the 3rd Respondent, **P12C**, the Assistant Land Commissioner of the Southern Province, and **P12D**, the 5th Respondent, communicated the decision and informed that the Respondents had taken steps to suspend or reconsider the leasing of the land to the 1st Petitioner and to proceed with leasing the same to the said MPSP.

Thereafter, although the Petitioners made several representations seeking to secure the lease of the land as reflected in documents marked **P13A**, **P13B**, **P13C**, and **P13D**, by letter dated 19th March 2015 marked **P14**, it was indicated that the decision had been changed in favour of leasing the land to the said MPSP. Subsequently, the 2nd Petitioner made a further request in his letter dated 30th March 2015, marked **P16A**, and on behalf of the 1st Petitioner, Nimesha Nicholos, Attorney at Law, informed the 5th Respondent that if any steps are taken to alienate the land in question to a third party, those steps should be suspended and an inquiry should be held.

Subsequent correspondence reflects inconsistent positions, including a communication by the 3rd Respondent dated 26th March 2015 marked **P15**, indicating that the land would be leased to the 1st Petitioner. However, by letter dated 10th April 2015 marked **P17A**, the Assistant Secretary (land) informed the 1st Petitioner that the land would be leased to the said MPSP on the basis that the **1st Petitioner, being a charitable organization, could not engage in commercial activities.**

Thereafter, by letters marked **P17B**, **P17C**, and **P17D**, steps were taken to lease the land to the said MPSP.

Position of the 1st to 5th, 9th and 10th Respondents

The above Respondents, while denying the material averments of the Petition, take up the position that the 1st Petitioner had no lawful right to the land in question at any stage.

It is their case that no lease agreement was ever executed in favour of the 1st Petitioner and that the land was not lawfully handed over. Notwithstanding the absence of any legal right, the 1st Petitioner is alleged to have occupied the land and commenced construction of a fuel station in or about the year 2010, and to have continued to operate the same without lawful authority.

The above Respondents further state that the initial correspondence relied upon by the Petitioners, including the documents marked **P12A** and **P12B**, did not confer any final or enforceable right, but merely reflected a temporary position pending further administrative consideration. It is submitted that the District Land Use Committee at its meeting held on 14th October 2014 decided to temporarily suspend the said project.

A central feature of the Respondents' case is that the 7th Respondent, who at all material times served as the Chairman of the Hambantota Branch of the 1st Petitioner, also served as the Chairman of the said MPSP. The Respondents contend that all dealings with the 1st Petitioner were conducted through the said 7th Respondent, and that he, in his capacity as a representative of the 1st Petitioner, had expressly consented to the land being leased to the MPSP as reflected in the letter dated 20th October 2014, marked **R3**. Accordingly, the Respondents contend that the Petitioners cannot now complain of any lack of notice or breach of natural justice.

The above Respondents specifically stated that, based on the letter of the 4th Respondent dated 27th October 2014, the 3rd Respondent communicated the decision to grant a long-term lease to the MPSP through the letter dated 17th November 2014 marked **R6**.

The above Respondents further stated that, based on the decision of the District Land Use Planning Committee dated 14th October 2014, marked **R4**, the 4th Respondent decided to cancel the decision to grant a long-term lease to the 1st Petitioner and award it to the MPSP (vide letter dated 27th October 2014, marked **R5**). The said decision was copied to the 7th Respondent, who represented the 1st Petitioner.

The Respondents alleged that the 1st Petitioner has not made any payments, by way of rent or otherwise, for the occupation of the State Land, and therefore, the 1st Petitioner had no legal right to occupy the disputed land.

In the above circumstances, the Respondents submit that the Petitioners are not entitled to any relief in writ jurisdiction and move for the dismissal of the application.

Position of the 7th and 8th Respondent

The 7th and 8th Respondents raised several preliminary objections to the maintainability of the present application and moved that the same be dismissed *in limine*.

At the outset, they contend that the Petitioners have suppressed material facts, are guilty of undue delay and laches, and have acquiesced in the impugned conduct. It is further alleged that the application is tainted by *mala fide* and does not disclose a *prima facie* case warranting intervention by this Court.

The 7th and 8th Respondents also submit that the Petition is fatally defective for non-joinder of necessary parties, in that the Ceylon Petroleum Corporation, which is presently operating a dealership on the land in question, has not been made a party to these proceedings. They further take the position that the Petitioners have improperly instituted proceedings against public officers in their official capacities without naming the individuals holding those offices.

It is further contended that the Petitioners have failed to exhaust the alternative remedies available under the Land Development Ordinance, which provides for an appeal to the Commissioner General of Lands from the decision of the Divisional Secretary.

One of the main arguments of the said Respondents is that the 1st Petitioner, being a charitable organization, is not legally entitled to engage in commercial or profit-making activities, and is therefore incapable of obtaining a long-term lease of State Land for the purpose of operating a petroleum dealership. Accordingly, it is submitted that the Petitioners lack the requisite *locus standi* to challenge the decision to lease the land to the MPSP.

The 7th and 8th Respondents further assert that, following the suspension of the initial process in or about July 2010, the Petitioners took no steps for several years to pursue the matter, thereby acquiescing in the subsequent decision to grant the land to a third party, which has, in fact, paid an advance towards such lease.

Issues for Determination

Having considered the pleadings, documents, and submissions of learned Counsel, the following issues arise for determination.

- i) Whether the Respondents, in arriving at the impugned decision, have acted in violation of the principles of natural justice, in particular the rule of *audi alteram partem*, by failing to afford the Petitioner an opportunity of being heard prior to departing from the earlier approval granted to the Petitioner.
- ii) Whether the conduct of the Respondents has given rise to a legitimate expectation in favour of the Petitioner, and if so, whether such expectation, procedural and/or substantive in nature, has been unlawfully frustrated.
- iii) Whether the impugned decision is vitiated by apparent bias, in violation of the principle of *nemo iudex in causa sua*, having regard to the participation of persons connected with the beneficiary entity in the decision-making process.
- iv) Whether the reliance placed by the Respondents on the consent or conduct of the 7th Respondent, without establishing proper authority to bind the Petitioner organization, renders the decision-making process unfair or unlawful.

Preliminary Objections (Non-Joinder, Failure to Name Public Officers, and Delay)

Before addressing the substantive issues, it is necessary to consider the preliminary objections raised by the 7th and 8th Respondents regarding non-joinder of parties, the failure to name public officers in their personal capacities, the inability to engage in commercial activities since the 1st Petitioner is a charity organization, and the alleged delay in filing this application.

In considering these objections, it is to be noted that the relief sought in this application is directed primarily against decisions taken by public authorities in the exercise of statutory and administrative powers relating to the allocation of State Land to the 1st Petitioner and later reallocation of it to the MPSP. The presence of the Ceylon Petroleum Corporation, while no doubt connected to the broader factual matrix, is not essential for the determination of the legality of the impugned decisions. The absence of such a party, therefore, does not, in the circumstances of this case, render the application defective.

With regard to the failure to name individual officers, it is well settled that proceedings in writ jurisdiction are ordinarily instituted against public officers in their official capacities, particularly where the relief sought is directed against the exercise of official power. In terms of **Rule 5 of the Court of Appeal (Appellate Procedure) Rules 1990**, it is abundantly clear that in an application under Article 140, it is sufficient compliance that the public officer is named only in his designation. In the absence of any allegation of personal liability or *mala fides* against specific individuals, the failure to name such officers in their personal capacities does not vitiate the application.

The objection based on delay, however, requires closer scrutiny. While it is true that an initial decision relating to the reallocation of subject land to the MPSP appears to have been taken in or about 2010, the material before this Court demonstrates that the decision-making process did not conclude at that stage and was, in fact, subject to subsequent reconsideration, correspondence, and shifting positions, in the event of the impugned decisions reflected in documents marked **P12A to P12D, P14, and P17A to P17D** in 2014 and 2015. Additionally, the document marked **P17A** is dated 10th April 2015. The Petitioners have acted upon the approvals granted to them, continued their operations, and made representations upon becoming aware of the change in position.

In these circumstances, it cannot be said that the Petitioners have acquiesced in the impugned decision or that the delay is such as to disentitle them to relief. The cause of action, in effect, arose upon the final decision to depart from the earlier position and allocate the land to the said MPSP, and thereafter, this application was filed within a reasonable time on 11th June 2015.

A further contention advanced by the 7th and 8th Respondents is that the 1st Petitioner, being a charity organization, is not legally entitled to engage in commercial activities and is therefore incapable of obtaining a lease of State Land for the purpose of operating a fuel station.

In support of this submission, reliance is placed on Article 1.5 of the Constitution of the Sri Lanka Red Cross Society, which states that it is a voluntary relief organization not promoted by any desire for gain, as well as Article 6.1, which sets out its humanitarian objectives. The Petitioners, however, rely on Article 30.6, which expressly provides that financial resources may be received from diverse sources, including government funding and funds raised

through cost recovery or commercial activities, and emphasises that it is advisable not to depend on a single source of income.

In considering these provisions, it is to be observed that the Constitution of the 1st Petitioner does not impose an absolute prohibition on engaging in activities that generate income. Rather, it contemplates raising funds through lawful means, including cost recovery and commercial activities, to sustain its humanitarian objectives. In any event, the issue before this Court is not the internal regulatory compliance of the 1st Petitioner, but the legality of the decision-making process adopted by the Respondents.

Accordingly, this Court is of the view that the preliminary objections raised by the Respondents do not warrant the dismissal of this application.

Procedural Impropriety, the Right to be Heard, and Failure to Give Reasons

It is to be observed that the alienation and disposition of State Land are governed by the provisions of the State Lands Ordinance, which vests the relevant authorities with the power to lease or otherwise dispose of State Land. However, the exercise of such statutory power is not unfettered. Even in circumstances where no lease has been concluded, or no legal right has accrued to an applicant, the decision-making process must conform to the requirements of legality, procedural fairness, and the principles of natural justice. Accordingly, the absence of a formal instrument of disposition in favour of the Petitioner does not preclude this Court from examining the legality of the impugned decisions in the exercise of its writ jurisdiction.

The rule of *audi alteram partem*, which embodies the right to be heard, is a fundamental principle of natural justice. It requires that a person whose rights or interests are likely to be adversely affected by a decision be given a fair opportunity to present their case before such a decision is taken. This requirement applies with particular force where a public authority seeks to reverse or cancel a prior approval upon which a party has acted to its detriment.

In the present case, the Petitioner had not only obtained approval but also acted upon it by incurring expenditure for surveying the land and constructing the filling station. The subsequent decision to cancel that approval and to reallocate the land to another entity directly affected the Petitioner's interests. In such circumstances, the Respondents were under a clear duty to afford the Petitioner an opportunity of being heard before taking such a decision.

The material before this Court does not disclose that any such opportunity was afforded. There is no evidence of notice, no disclosure of reasons, and no indication of any process by which the Petitioner was invited to make representations. The decision reflected in **R5** thus appears to have been taken in a manner that is inconsistent with the requirements of procedural fairness.

It is in this context that the justification advanced by the Respondents, particularly as reflected in document **P17A**, may be considered.

The document marked **P17A**, issued by the Additional Secretary (Lands) and addressed to the 1st Respondent, introduces a further justification for departing from the earlier position, namely that the 1st Petitioner, being a charitable organization, is not entitled to engage in commercial activities and is therefore unsuitable to be granted a lease of the subject land. This reasoning, however, cannot be accepted as a valid basis for the impugned decision.

The material placed before this Court clearly demonstrates that the relevant public authorities were, at all material times, aware of the nature of the project and had actively facilitated its implementation, including the survey of the land, the extension of its extent, the engagement with the Ceylon Petroleum Corporation, and the construction and operation of the fuel station. The position now reflected in **P17A** is therefore inconsistent with the prior conduct of the Respondents.

Moreover, there is no material to indicate that this ground was ever communicated to the Petitioners prior to the impugned decision or that they were afforded an opportunity to address the same. The introduction of such a reason, at a belated stage and without affording procedural safeguards, is contrary to the requirements of fairness.

In these circumstances, the justification advanced in **P17A** cannot cure the procedural and substantive defects in the decision-making process, nor can it be relied upon to defeat the legitimate expectation arising from the prior conduct of the Respondents.

Another issue in this case is the reliance of the Respondents on the supposed consent of the 7th Respondent to proceed with the transfer of the filling station to the MPSP. The evidence before the Court shows that the 7th Respondent was involved in the project from the outset and participated in the affairs of the Petitioner organization. However, the same evidence indicates that he later took on a role within the entity to which the land was ultimately allocated, namely MPSP.

District Land Use Planning Committee (Observation)

Before leaving this aspect of the matter, it is to be observed that the material placed before this Court, especially **R5**, refers to a decision of the District Land Use Planning Committee, upon which the subsequent administrative action appears to have been based. However, neither party has placed before this Court the legal basis, composition, or statutory authority of the said Committee, nor was any submission made as to the extent of its powers in relation to the disposition of State Land. In these circumstances, there is no necessity to make any definitive finding on the legality or competence of the said Committee. In any event, even assuming that such a Committee was duly constituted and empowered to make recommendations, the ultimate decision taken by the Respondents is still required to conform to the principles of natural justice, procedural fairness, and legality, which, for the reasons already stated, have not been satisfied in the present case.

Identity of MPSP, the Role of the 7th Respondent, and the Decision-Making Process

At this stage, it becomes necessary to examine the identity and evolution of the entity known as MPSP, the role of the 7th respondent in relation to both the Petitioner organization and the said entity, and the manner in which these factors were considered by the 1st to 5th, 9th, and 10th Respondents in the decision-making process concerning the allocation of the subject land.

The entity known as MPSP was the one to which the subject land was ultimately proposed for allocation. The material before this Court indicates that this entity was initially established under the name “Chamal Rajapaksa Praja Sanvardena Padanama”, with the then Minister, Mr Chamal Rajapaksa, associated with its formation. It is also in evidence that the said Minister had earlier recommended allocating 40 perches of land, together with an additional 25 perches, to the 1st Petitioner for the purpose of establishing the filling station.

The document marked **P26**, being the minutes of a meeting dated 20th July 2014, reveals that a decision was taken to change the name of the said entity to “Magampura Praja Sanvardena Padanama (MPSP)”, on the basis that the use of the Minister’s personal name was considered inappropriate. The same material indicates that Mr A. Weeraratne functioned as the Secretary of the said entity and was present at the said meeting.

It is further disclosed that the inaugural meeting of the said foundation, under its earlier name, was held on 30th October 2011, at which the 7th Respondent was also present, as reflected in document marked **P28**.

This sequence of events demonstrates that the entity referred to as MPSP is not entirely independent but rather evolved from an earlier formation associated with individuals who, at various stages, were involved in the Petitioner's project.

In such circumstances, it was incumbent upon the 1st to 5th, 9th, and 10th Respondents, as public authorities, to satisfy themselves that the 7th Respondent was duly authorized to act on behalf of the 1st Petitioner organization before placing reliance on such consent. The Petitioner, being a corporate body, could act only through its properly constituted governing structure, and not through the unilateral acts of an individual whose authority was neither established nor clearly defined at the relevant time.

The material placed before this Court does not disclose that any such inquiry or verification was undertaken. The reliance placed on the said consent, in the absence of any ascertainment of its legal validity, further undermines the fairness and integrity of the decision-making process.

The 1st to 5th, 9th, and 10th Respondents, being public officers entrusted with the administration of State Land, were under a duty to act strictly in accordance with the applicable rules and procedures and to ensure that all relevant facts were accurately placed before the decision-making authority. In the present case, it is observed that following the District Land Committee's decision to depart from the earlier position and allocate the land to MPSP, the 4th Respondent, by communication dated 27th October 2014, marked **R5**, forwarded the relevant documentation to the 3rd Respondent.

However, the said document states that there were no buildings or encroachments on the subject land. This assertion appears to be inconsistent with the plan bearing No. LC/HMB/2014/56, which is annexed to the same set of documents and clearly indicates the existence of a fuel station within the said land.

This inconsistency is significant, particularly in light of the Petitioner's position in its counter-affidavit, where this discrepancy has been specifically highlighted. The presence of such conflicting material within the very documents relied upon by the Respondents raises serious

concerns as to whether all relevant facts were properly and accurately presented to the decision-making authority.

In circumstances where a decision affecting the rights of the Petitioners is taken on the basis of incomplete or inconsistent material, the integrity of the decision-making process is inevitably called into question. At the very least, this reflects a failure by the relevant authorities to exercise the degree of care and diligence expected of public officers in discharging their public duties.

The situation is further complicated by the fact that the 7th Respondent appears to have held multiple roles with respect to both the Petitioner organization and the entity ultimately benefiting from the impugned decision. This circumstance, at the very least, called for a higher degree of caution on the part of the Respondents, which is not evident from the material placed before this Court.

The learned Counsel for the 1st to 5th, 7th, 9A and 10th Respondents also relied on the judgment of *His Lordship Janak de Silva in the case of Hettiarachchige Wijenayake v The Commissioner of Title Settlement and Others CA (Writ) Application 70/2017 decided on 21st June 2019*, relating to the operation of the Title Registration Act, wherein it has been emphasised that the statutory procedure governing the investigation and declaration of title must be strictly complied with, and that such procedure embodies the requirements of natural justice.

While this Court respectfully acknowledges the said principle, it is to be observed that the present case arises in the context of the exercise of statutory and administrative powers relating to the disposition of State Land under the State Lands Ordinance, and not within a structured adjudicatory framework of the nature considered in the said authority. In any event, even on the application of the said principle, the material before this Court does not disclose that the Petitioners were afforded any opportunity of being heard, nor that the impugned decision was taken upon a proper or consistent evidentiary basis. Accordingly, the said authority does not assist the Respondents in the circumstances of this case.

Legitimate Expectation – Procedural and Substantive

The Petitioners in the instant application assert that they possessed a legitimate expectation that the long-term lease of the subject land would be granted in their favour. Such a claim, properly understood, is not confined to a mere expectation of a procedural hearing, but

extends, in appropriate circumstances, to a substantive legitimate expectation arising on a representation, promise, or conduct of the 1st to 5th Respondents.

In this regard, it is apposite to adopt the formulation articulated by **Justice Prasanna Jayawardena PC in *M.R.C.C. Ariyaratne and Others v N.K. Illangakoon and Others SCFR Application No. 444/2012 decided on 30th July 2019.***

Justice Prasanna Jayawardena, drawing from English authorities, stated that a substantive legitimate expectation may arise where a public authority, by its words or conduct or a combination of both, has made a specific, unambiguous and unqualified assurance, which is directed to an individual or an identifiable group, and not to the public at large or in relation to “macro-political” matters, and which is of a defined and limited character capable of enforcement. In such circumstances, where the individual has relied upon that assurance, the public authority may not resile from it unless justified by an overriding public interest.

Justice Prasanna Jayawardena further observed therein that procedural and substantive legitimate expectations are not distinct or isolated categories, but rather “two shades in one spectrum”, both emanating from the same underlying principle.

In determining claims of a substantive legitimate expectation, the Court is not confined to the traditional ***Wednesbury unreasonableness test***. As observed in ***Ariyaratne***, quite apart from the *cursus curiae* in this jurisdiction, which broadly follows the approach in ***Dayaratne v Minister of Health and Indigenous Medicine***, there is good reason why it is not appropriate, in cases of this nature, to confine judicial review to the traditional test of unreasonableness described in ***Wednesbury***. The appropriate inquiry, as clarified in ***Ariyaratne***, is whether the frustration of such expectation is so unfair as to amount to an abuse of power, which necessarily requires the Court to weigh the competing interests of the individual and the public authority (vide page 49 of the judgement).

Justice Prasanna Jayawardena further articulated that such cases typically involve a dual exercise of power by the same authority: first, the making of a representation that creates the expectation, and second, a subsequent decision that negates it. In such circumstances, confining judicial review solely to the latter decision under a narrow ***Wednesbury unreasonableness test*** would render the doctrine ineffective.

He also adopted the structured approach reflected in English jurisprudence, particularly the guidance of ***Laws LJ in R [BHATT MURPHY AND ORS] VS. INDEPENDENT***

ASSESSORS [2008] EWCA Civ. 766, and held that a Court should adopt a two-step inquiry. First, the Court must determine whether a legitimate expectation arises by examining whether the representation relied upon is clear, unambiguous, and unqualified, whether it is directed at a specific individual or identifiable group, and whether its content is sufficiently precise and limited in scope. Secondly, if such an expectation is established, the Court must weigh the prejudice caused to the individual against any overriding public interest relied upon to justify the departure, and determine whether such a departure is proportionate, fair, and justified.

Applying these principles to the present case, it is evident that the Petitioner satisfies the threshold requirements for the recognition of a legitimate expectation. The approvals granted by the State, the extension of the land, the directions issued by the Divisional Secretary to conduct the survey, the communication addressed to the Ceylon Petroleum Corporation indicating that the land had been surveyed for the purpose of establishing a filling station, and the continued acquiescence of the authorities to the Petitioner's operations, collectively constitute clear, specific and unambiguous representations directed at the Petitioner.

These representations were neither vague nor general statements of policy. They were precise, consistent, and directed at a specific party, thereby satisfying the requirements articulated in *Ariyaratne*.

Acting upon such representations, the Petitioner continued its activities by obtaining the requisite licence, investing substantial financial resources, constructing and operating the filling station, and conducting its business openly with the knowledge and tacit approval of the authorities. The reliance is substantial, irreversible, and unequivocal.

Accordingly, the Petitioner has established both a procedural legitimate expectation, entitling it to a hearing prior to any adverse decision, and a substantive legitimate expectation, in that it was led to expect the continuation of a defined benefit.

Turning to the second stage of the inquiry, this Court must weigh the competing interests. In doing so, it is to be observed that the Respondents have failed to identify any compelling or overriding public interest, statutory necessity, or policy imperative which would justify a departure from the representation made to the Petitioner or any involvement of broad policy considerations affecting the public at large. On the contrary, the representations were directed at a specific individual or an entity in relation to a defined transaction.

It is to be noted that the Respondents have contended that the Petitioner acted in an alleged breach of certain conditions governing the use of the land (illegal possession/encroachment of State Land). While such conduct may be relevant in assessing the weight and enforceability of the expectation, it does not, in the circumstances of this case, negate the existence of the representations made by the public authorities, and it does not justify a complete departure from the procedural and substantive protections to which the Petitioner was entitled.

In these circumstances, the impugned decision represents a clear departure from prior representations, effected without notice, without reasons, and without affording the Petitioner an opportunity of being heard. Such conduct is not merely procedurally improper but is substantively unfair and, in my view, amounts to an abuse of power.

Accordingly, the material placed before this Court clearly establishes, at least, a procedural legitimate expectation in favour of the Petitioner, and also furnishes a substantial basis for asserting a substantive legitimate expectation arising from the prior conduct and representations of the Respondents.

In light of the foregoing, this Court is of the view that the impugned decision is vitiated both by procedural impropriety and by the unlawful frustration of the Petitioner's legitimate expectation.

***Nemo Judex in Causa Sua* – Bias and Participation in Decision-Making**

A further matter of serious concern arises in relation to the composition of, and participation in, the decision-making process that culminated in the impugned decision marked **R4**.

It is further evident from the counter affidavit that the decision of the District Land Use Committee to depart from the earlier position and to allocate the subject land to the Magampura Praja Sanvardena Padanama (MPSP) was taken at a meeting at which Mr. A. Weeraratne, who is identified as the Secretary to the said MPSP, was present.

In these circumstances, the participation of a person directly connected to or associated with the beneficiary entity in the very process by which that entity obtained the benefit raises serious questions about the impartiality of the decision-making.

The principle of *nemo judex in causa sua* requires that a decision-maker must be free from bias, whether actual or apparent. The test is not confined to proof of actual prejudice. It is

sufficient if the circumstances give rise to a real likelihood or reasonable apprehension of bias in the mind of a fair-minded observer.

Where a person who holds a position within, or is closely associated with, the beneficiary of a decision participates in the decision-making process leading to that decision, the integrity of the process is inevitably compromised. Even if such a person does not actively participate in the decision, his presence and participation can influence the outcome and, more importantly, erode public confidence in the fairness of the process.

In the present case, the decision reflected in **R4** altered a prior position favourable to the Petitioner and conferred a benefit on MPSP. The participation of its secretary in that decision-making forum, without any disclosure, recusal, or procedural safeguards, renders the process liable to bias.

This is compounded by the fact that the Respondents have relied, at least in part, on the conduct and consent of the 7th Respondent in justifying the impugned decision. The interconnections among the individuals involved and the beneficiary entity further reinforce the impression that the decision was not taken through a fair and impartial process.

In such circumstances, this Court is of the view that the decision-making process is vitiated by apparent bias and is therefore contrary to the well-established principle of natural justice that no person shall be a judge in his own cause.

The learned Counsel for the 1st to 7th, 9A and 10th Respondents tendered further written submissions together with a recent judgment of the Supreme Court in *Piliyandala Tharuna Bauddha Samithiya v. Satharasinghe Achcige Don Chaminda SC/APPEAL/96/2025, decided on 10th February 2026*, in support of the proposition that a party in unlawful occupation should not be permitted to derive benefit from his own wrong and that discretionary relief ought to be refused in such circumstances. I have considered the written submissions and the authority cited. The said judgment was delivered in the context of an interim injunction in a private law dispute concerning the overholding of possession and the application of equitable principles at an interlocutory stage. The present application, however, arises in the exercise of the writ jurisdiction of this Court under Article 140 of the Constitution, where the primary concern is whether the impugned administrative decisions were taken according to law, fairly, and free from procedural impropriety and apparent bias. Even if the Respondents' contention that the Petitioners' occupation of the land was irregular

or unauthorized is taken into account as a matter relevant to discretion, it does not cure or validate a decision-making process that is vitiated by failure to afford a hearing, failure to disclose reasons, and apparent bias. It is precisely for that reason that this Court refrains from directing that a lease be granted to the Petitioners and confines relief to quashing the impugned decisions and directing a fresh reconsideration in accordance with law.

Conclusion and Order

Having considered the pleadings, documents, and submissions of learned Counsel, and for the reasons set out above, this Court is of the view that the impugned decisions relating to the refusal and/or suspension of the Petitioner's application for a long-term lease of the subject State Land, and the subsequent steps taken to allocate the said land to the Magampura Praja Sanvardena Padanama (MPSP), cannot be sustained in law.

The material placed before this Court establishes that the Respondents, being public authorities exercising statutory and administrative powers, have acted in a manner that is procedurally unfair, unreasonable, and contrary to established principles of public law.

In particular, this Court finds that:

- a) The impugned decisions were taken in violation of the principles of natural justice, in that the Petitioners were not afforded an opportunity of being heard prior to the reversal of the earlier approval granted in their favour, nor were any reasons disclosed for such reversal, other than those contained in the document marked **P17A**;
- b) The conduct of the Respondents, viewed cumulatively, gave rise to a legitimate expectation in favour of the Petitioners, both procedural and substantive in nature, which has been frustrated without any lawful justification or overriding public interest;
- c) The decision-making process is vitiated by apparent bias, inasmuch as a person closely connected with the beneficiary entity participated in the deliberations leading to the impugned decision, thereby offending the principle that no person shall be a judge in his own cause;
- d) The reliance placed by the Respondents on the purported consent or conduct of the 7th Respondent, without establishing due authority to bind the Petitioner organization, renders the decision-making process fundamentally flawed and unreliable;

- e) The material inconsistencies in the documents relied upon by the Respondents, particularly in relation to the existence of the fuel station on the subject land, further undermine the integrity of the decision-making process.

In these circumstances, this Court is satisfied that the impugned decisions are procedurally unfair, legally unsustainable, and contrary to established principles of public law and violate the legitimate expectations of the Petitioners, and constitute an abuse of power that warrants the intervention of this Court in the exercise of writ jurisdiction.

Accordingly, this Court makes orders as follows:

- a) A *Writ of Certiorari* is hereby issued quashing the decisions reflected in documents marked **P12A, P12B, P12C, P12D, P14, P17A, P17B, P17C, and P17D**, whereby the Respondents have refused or suspended the Petitioners' application for a long-term lease of the land depicted in plan marked **P8** and have taken steps to lease the same to the Magampura Praja Sanvardena Padanama (MPSP).
- b) A *Writ of Mandamus* is hereby issued directing the Respondents to reconsider the Petitioners' application for the grant of a long-term lease of the said land, in accordance with law, and after affording the Petitioners a fair opportunity of being heard.

Considering the circumstances of the case, I make no order as to costs.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL